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SENATE BILL 778

**48TH LEGISLATURE - STATE OF NEW MEXICO - FIRST SESSION, 2007**

INTRODUCED BY

Mary Jane M. Garcia

AN ACT

RELATING TO CRIMINAL LAW; CREATING A NEW CRIMINAL OFFENSE KNOWN AS HUMAN TRAFFICKING; PROVIDING PENALTIES; ESTABLISHING A TASK FORCE TO COMBAT HUMAN TRAFFICKING; MAKING AN APPROPRIATION.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. A new section of the Criminal Code is enacted to read:

"[NEW MATERIAL] HUMAN TRAFFICKING.--

A. Human trafficking consists of a person knowingly:

(1) recruiting, soliciting, enticing, transporting or obtaining by any means another person with the intent or knowledge that force, fraud or coercion will be used to subject the person to labor, services or commercial sexual activity;

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1 (2) recruiting, soliciting, enticing,  
2 transporting or obtaining by any means a person under the age  
3 of eighteen years with the intent or knowledge that the person  
4 will be caused to engage in labor, services or commercial  
5 sexual activity; or

6 (3) benefiting, financially or by receiving  
7 anything of value, from an act enumerated in Paragraph (1) or  
8 (2) of this subsection and with the knowledge that the act has  
9 been committed.

10 B. Whoever commits human trafficking that does not  
11 result in injury to another person is guilty of a third degree  
12 felony; except if the victim is under the age of:

13 (1) sixteen, the person is guilty of a second  
14 degree felony; or

15 (2) thirteen, the person is guilty of a first  
16 degree felony.

17 C. Whoever commits human trafficking that results  
18 in injury to another person is guilty of a second degree  
19 felony; except if the victim is under the age of sixteen, the  
20 person is guilty of a first degree felony.

21 D. Whoever commits human trafficking that results  
22 in great bodily harm to another person or another person's  
23 death is guilty of a first degree felony.

24 E. Whoever commits human trafficking that results  
25 in the death of a child under the age of twelve is guilty of a

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1 first degree felony resulting in the death of a child.

2 F. A court shall enhance a person's sentence by two  
3 years for a conviction of human trafficking if ten or more  
4 victims were involved in the commission of the crime.

5 G. A person convicted of human trafficking shall,  
6 in addition to any other punishment, be ordered to make  
7 restitution to the victim for the gross income or value of the  
8 victim's labor or services and any other actual damages in  
9 accordance with Section 31-17-1 NMSA 1978.

10 H. As used in this section:

11 (1) "coercion" means:

12 (a) causing or threatening to cause harm  
13 to any person;

14 (b) using or threatening to use physical  
15 force against any person;

16 (c) abusing or threatening to abuse the  
17 law or legal process;

18 (d) threatening to report the  
19 immigration status of any person to governmental authorities;  
20 or

21 (e) knowingly destroying, concealing,  
22 removing, confiscating or possessing any actual or purported  
23 government document of any person; and

24 (2) "commercial sexual activity" means any  
25 sexual act or sexually explicit exhibition for which anything

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1 of value is given, promised to or received by any person."

2 Section 2. A new section of the Criminal Code is enacted  
3 to read:

4 "[NEW MATERIAL] FORFEITURE OF PROPERTY--HUMAN  
5 TRAFFICKING.--

6 A. The following are subject to forfeiture:

7 (1) motor vehicles or aircraft that are used  
8 or intended for use in the commission of the offense of human  
9 trafficking; and

10 (2) money, negotiable instruments or proceeds  
11 that are the fruit or instrumentalities of the crime.

12 B. The provisions of the Forfeiture Act apply to  
13 the seizure, forfeiture and disposal of property subject to  
14 forfeiture pursuant to Subsection A of this section."

15 Section 3. TEMPORARY PROVISION--TASK FORCE TO COMBAT  
16 HUMAN TRAFFICKING ESTABLISHED--MEMBERSHIP--DUTIES.--

17 A. The "task force to combat human trafficking" is  
18 created. The task force shall consist of the following  
19 members:

20 (1) the attorney general or the attorney  
21 general's designee;

22 (2) a representative from the New Mexico  
23 coalition of sexual assault programs, incorporated;

24 (3) the secretary of children, youth and  
25 families or the secretary's designee;

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1 (4) the secretary of public safety or the  
2 secretary's designee;

3 (5) the chief public defender or the chief's  
4 designee;

5 (6) a representative from the New Mexico  
6 district attorneys association;

7 (7) the United States attorney for the  
8 district of New Mexico or the attorney's designee;

9 (8) a representative from the United States  
10 border patrol;

11 (9) a representative from the United States  
12 immigration and customs enforcement;

13 (10) representatives of local law enforcement  
14 and state police from critical geographic areas of New Mexico  
15 affected by immigrant issues and human trafficking problems;  
16 and

17 (11) representatives from organizations that  
18 provide services to victims of human trafficking, including  
19 immigrants and immigrant victims of sexual assault and domestic  
20 violence.

21 B. The task force shall:

22 (1) collect and organize data on the nature  
23 and extent of human trafficking in New Mexico;

24 (2) monitor and evaluate the implementation of  
25 this 2007 act, including the progress of federal, state and

1 local law enforcement agencies in preventing human trafficking,  
2 protecting and providing assistance to victims of human  
3 trafficking and prosecuting human trafficking offenders;

4 (3) develop and conduct training for law  
5 enforcement personnel and victims services providers to  
6 identify victims of human trafficking;

7 (4) examine the training protocols developed  
8 by federal, state and local law enforcement agencies related to  
9 dealing with human trafficking victims and offenders;

10 (5) assist in the coordination among federal,  
11 state and local government agencies in implementation of this  
12 2007 act;

13 (6) implement a media awareness campaign in  
14 communities affected by human trafficking;

15 (7) develop recommendations on how to  
16 strengthen state and local efforts to prevent human  
17 trafficking, protect and assist human trafficking victims and  
18 prosecute human trafficking offenders; and

19 (8) submit an annual report of its activities,  
20 findings and recommendations, including any proposed  
21 legislation, in December of each year to the governor and the  
22 legislature.

23 C. The chair of the task force shall be elected by  
24 the task force, and the task force shall meet at the call of  
25 the chair.

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1           D. The public members of the task force are  
2 entitled to per diem and mileage as provided in the Per Diem  
3 and Mileage Act and shall receive no other perquisite,  
4 compensation or allowance.

5           E. The attorney general and the New Mexico  
6 coalition of sexual assault programs, incorporated, shall  
7 provide the staff for the task force.

8           F. The task force to combat human trafficking is  
9 terminated on July 1, 2010."

10           Section 4. APPROPRIATION.--Eighty-two thousand dollars  
11 (\$82,000) is appropriated from the general fund to the office  
12 of the attorney general for expenditure in fiscal year 2008 for  
13 per diem and mileage, training for law enforcement personnel  
14 and victims services providers, a media awareness campaign and  
15 other expenditures for the task force to combat human  
16 trafficking pursuant to Section 3 of this act. Any unexpended  
17 or unencumbered balance remaining at the end of fiscal year  
18 2008 shall revert to the general fund.

19           Section 5. EFFECTIVE DATE.--The effective date of the  
20 provisions of this act is July 1, 2007.